

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Criminal No. 13-00249-01-CR-W-BP
)	
YAN NAING,)	
)	
Defendant.)	

MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE

PENDING CHARGE: On July 17, 2013, the Grand Jury returned a one count Indictment against YAN NAING. The Grand Jury alleged that Naing, a citizen of Burma, entered the United States as a refugee and was convicted in the state of Kansas of Aggravated Intimidation of a Witness or Victim. As a result, Naing was subject to an April 25, 2013, final order of removal, but willfully failed or refused to make timely application for the travel documents necessary for his removal. It is alleged that on or about May 3, 2013, Naing refused to complete and sign an "Application for the renewal and issuance of passport for Myanmar national living abroad."

The following matters were discussed and action taken during the pretrial conference:

TRIAL COUNSEL:

Government: Roseann Ketchmark
Case Agent: Deportation Officer Corey Terrell of ICE
Defense: Steve Moss

OUTSTANDING MOTIONS: None

TRIAL WITNESSES:

Government: 3 witnesses
Defendants: no more than 3 witnesses, including the defendant

TRIAL EXHIBITS

Government: 11 exhibits
Defendant: no more than 15 exhibits for defendant

DEFENSES: General denial and coercion

POSSIBLE DISPOSITION:

(X) Definitely for trial; () Possibly for trial; () Likely a plea will be worked out

TRIAL TIME: 1 ½ days

Government's case including jury selection: 1 day

Defense case: 2 hours

STIPULATIONS: The parties will discuss whether defendant will stipulate to the aggravated felony conviction.

UNUSUAL QUESTIONS OF LAW: The legal issues surrounding the coercion defense were raised by a motion to dismiss which was previously denied. Additionally, Mr. Moss believes that jury instructions could be more complicated in this case. However, as counsel have not yet prepared the instructions, this remains only a possible area of concern.

FILING DEADLINES:

Witness and Exhibit List

Government: Friday before the pretrial conference

Defense: Friday before the pretrial conference

Counsel are requested to list witnesses in alphabetical order on their witness list.

Exhibit Index, Voir Dire, Jury Instructions: Noon, Wednesday, October 29, 2014

Please Note: Jury instructions must comply with Local Rule 51.1

Motion in Limine: During the trial, if defendant testifies, government counsel will orally request that the defendant be prohibited from testifying about the torture and/or murder of his parents or siblings.

TRIAL SETTING: Due to interpreter issues, this case is specially set before Judge Phillips beginning on November 13, 2014.

IT IS SO ORDERED.


SARAH W. HAYS
United States Magistrate Judge